

**Bureau of Land Management
Winnemucca District Office
BRFO (W030)**

Categorical Exclusion

CX#: DOI-BLM-NV-W030-2014-0017-CX

Date: 2/13/2012

Lease / Case File / Serial #:

Regulatory Authority (CFR or Law): 3604

BLM Manual: N/A

Subject Function Code: 3715

Is the project located within a Preliminary Priority Habitat? ☐ Yes ☒ No

Is the project located within a Preliminary General Priority Habitat? ☐ Yes ☒ No

Is the project located within a National Landscape Conservation System feature (NCA, Wilderness, WSA, ISA, Scenic or Historic Trails)? ☒ Yes ☐ No

1. BLM District Office: Winnemucca District Office

2. Name of Project Lead: Daniel Atkinson

3. Project Title: Soldier Meadows Road Material Sites

4. Applicant: BLM

5. Project Description: (briefly describe who, what, when, where, why, how)

The Proposed Action is to authorize the removal of up to 50,000 cubic yards of sand and gravel from three mineral material sites located along Soldier Meadows Road in Humboldt County, Nevada, and to recontour five existing mineral material sites that would not be used in the future. The BLM engineering operations crew has requested Free-Use Permits (FUPs) from three material sites that were identified along the length of Soldier Meadows Road. One of these sites is an existing gravel pit that has been used by the BLM and Humboldt County Road Department in the past, and two sites would be new authorizations. Although two sites would be new authorizations, a small gravel pit already exists at each location. The proposed material sites are listed in detail below:

Existing material site:

Cherry Creek Pit, T38N, R25E, section 8, within SWSE

New Authorizations:

Bronco Springs Pit, T37N, R25E, section 22, within NESW

Wheeler Spring Pit, T39N, R25E, section 19, within SWNE

Mineral materials would be loaded into belly- or end-dump trucks using either a front-end loader or backhoe. Access would be along existing roads. Standard stipulations would be attached to the FUPs.

As stated, the Proposed Action also includes the recontouring of five material sites that are present along Soldier Meadows Road. The BLM engineering operations crew has determined that these material sites would not meet road maintenance needs, and therefore should be closed. Recontouring would be conducted using a backhoe to smooth out any existing pit walls. Pit walls would also be ripped along contour to catch meteoric moisture and promote plant growth.

Project dimensions (length, width, height, depth): Approximately 5 acres each.

Total Acres: Total project disturbance would be approximately 15 acres (5 acres per FUP authorization).

BLM Acres: Approximately 15 acres of BLM-managed land.

Will the project result in new surface disturbance? ☒ Yes ☐ No

Has the project area been previously disturbed? ☒ Yes ☐ No ☐ N/A

If yes, what percent of the project area has been disturbed? 25% . If only part of the project area has been disturbed, indicate disturbed area on map. Describe disturbance (and attach photo of disturbed area if you have one): See attached aerial photos.

6. Legal Descriptions:

Cherry Creek Pit, T38N, R25E, section 8, within SWSE
Bronco Springs Pit, T37N, R25E, section 22, within NESW
Wheeler Spring Pit, T39N, R25E, section 19, within SWNE

USGS 24k Quad name: Double Hot Springs, Wagner Springs, Mud Meadows

100k map name: High Rock Canyon

Land Status: ☒ BLM ☐ Private ☐ Other_____.

Part I: Plan Conformance Review

The Proposed Action is subject to the:

- ☐ Paradise-Denio Management Framework Plan
- ☐ Sonoma-Gerlach Management Framework Plan
- ☒ Black Rock Desert-High Rock Canyon Emigrant Trails NCA and Associated Wilderness and Other Contiguous Lands in Nevada RMP

The proposed action is in conformance with the applicable Land Use Plan (LUP) because it is specifically provided for in the following LUP decision(s):

Saleable Minerals Management Min-5

Gravel pits and rock sources may be permitted, developed and used for the maintenance of roads under the terms of the Mineral Materials Act of 1947, consistent with the NCA Act.

Part II: NEPA Review

Categorical Exclusion Review: This Proposed Action qualifies as a categorical exclusion under:



☒ 516 DM 11.9, (BLM) F.10 - Disposal of mineral materials, such as sand, stone, gravel, pumice, cinders, and clay, in amounts not exceeding 50,000 cubic yards or disturbing more than 5 acres, except in riparian areas.

ESA and BLM Sensitive Status Species

| Evaluation Criteria | Yes | No |
|--|-------------------------------------|-------------------------------------|
| 1. Are species listed under the Endangered Species Act likely to occur in the project area? If yes, list the species in Table 1 below. Verify with USFWS or use approved list. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Are BLM NV Sensitive Species, based upon the current IM, likely to occur in the project area? If yes, list the species in the Table 1 below. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3. Could the proposed action result in "take" under the Migratory Bird Treaty Act? If yes, attach appropriate mitigation measures. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Table 1. Special Status Species that may occur in the project area:

| ESA | BLM | Common (Scientific) Name | May Be Affected? | Mitigation for BLM Sensitive Species (The following stipulation(s) is/are recommended to be applied to the authorization) (Attach ESA Section 7 Compliance to Form, if applicable) |
|--------------------------|-------------------------------------|---|--|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Smooth stickleaf (<i>Mentzelia mollis</i>) Oryctes (<i>Oryctes nevadensis</i>) | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Recommended mitigation pending survey results. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Bighorn sheep (<i>Ovis canadensis</i>) | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Slight possibility to occur as the proposed project area is on the fringe of habitat. No recommended mitigation. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Several sensitive migratory birds may occur. | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Follow standard migratory bird stipulations for pre-disturbance nest surveys. |

Table 2. Migratory Bird Treaty Act Consideration

| Potential MBTA Species w/in the Project Area Common (<i>Scientific</i>) Name | May Be Affected? | Recommended Mitigation (The following stipulation(s) is/are recommended to be applied to the authorization) |
|--|--|---|
| Several migratory birds possible. | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | Follow standard migratory bird stipulations for pre- disturbance nest surveys. |
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| | <input type="checkbox"/> Yes <input type="checkbox"/> No | |

Mitigation Measures/Remarks (The following stipulation(s) is/are recommended to be applied to the authorization):

- Surface disturbing activities shall not occur from March 1 to August 31 because of concerns over the destruction of migratory birds, their eggs or young. To avoid this problem for future operations, planning will be required so that native vegetation is cleared in those areas outside of the nesting season to deter birds from nesting there. Vegetation shall be cleared only in the footprint of the projected disturbance for that year.

If a need for material should arise during the nesting season (March 1 – August 31), the permittee shall have a nest survey conducted by a qualified biologist acceptable to the BLM, no longer than 5 days prior to disturbance. Surveys will be conducted between 1 hour prior to sunrise and two hours post-sunrise. All active nests or bird sightings within the survey area will be marked with UTM coordinates. If active nests are located the BLM wildlife biologist shall be notified and provided with the UTM coordinates. Once the BLM biologist has determined the birds have fledged, mining activities may proceed.

The Proposed Action has been reviewed to determine if any exceptions described in 43 CFR 46.215 Categorical Exclusions: Extraordinary Circumstances apply. (See attached page)

Part III: DECISION:

I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved land use plan and that no other environmental analysis is required.

☒ Project authorization is subject to mitigation measures identified above. (This is a NEPA Decision. A separate program implementation decision is necessary.) ☐

Authorized Official: \S\ William Mack Jr. Date: 8/26/2014
(Signature)

Administrative Review or Appeal Opportunities

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to William Mack Jr., Black Rock Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make. Form 1842-1 provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California 95825-1890. Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).